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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO – ECF PROGRAM

ELLEN AMBROFF and TERRY
AMBROFF,

Plaintiffs,

v.

AMERICAN MEDICAL SYSTEMS, INC.,
and DOES ONE through TWENTY-FIVE,
inclusive,

Defendants.

CASE NO. C08-04289 JL

**STIPULATION FOR DEFENSE
MEDICAL EXAMINATION AND
[PROPOSED] ORDER**

IT IS HEREBY STIPULATED AND AGREED to by plaintiffs Ellen Ambroff and
Terry Ambroff (“plaintiffs”) and defendant American Medical Systems, Inc. (“AMS”), who
provide their consent through their attorneys of record, that plaintiff Ellen Ambroff shall submit to

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1 a defense medical examination (“DME”) as follows:

2 1. A DME will be conducted by Craig V. Comiter, M.D. a Board-certified urologist,
3 on **July 9, 2010, at 8:30 a.m.**, at Dr. Comiter’s office at Stanford University Medical Center,
4 Urology Clinic, 900 Blake Wilbur Drive, 2nd Floor, Palo Alto, California 94304, Tel:
5 650.723.3391.

6 2. The examination will consist of the taking of a medical and personal history of
7 plaintiff Ellen Ambroff, including past and present complaints and/or symptoms, and a physical
8 examination. The physical examination, which will be chaperoned by a nurse, will be comprised
9 of the following: the taking of plaintiff Ellen Ambroff’s vital signs (blood pressure, heart rate,
10 temperature and respiratory rate) and a general physical examination which will include a
11 bimanual vaginal examination, a rectal examination, and such other means of physical
12 examination to fully evaluate plaintiff Ellen Ambroff’s complaints in this case. Plaintiff will not
13 be required to submit to any testing during the examination. The anticipated length of the entire
14 DME, including patient history and physical examination, is approximately 45 minutes. The
15 anticipated length of the internal physical examination (vaginal and rectal) is approximately three
16 minutes.

17 3. Breaks during the DME will be accommodated, as necessary.

18 4. No one other than examinee plaintiff Ellen Ambroff and her attorney, Amy Eskin,
19 is entitled to be present during the examination, though Ms. Eskin is to remain silent and may not
20 participate in, interrupt and/or otherwise intervene during the DME, so long as the DME is
21 conducted within the parameters of this Stipulation. The examination may be tape recorded by
22 plaintiff Ellen Ambroff and her attorney. If it is, AMS is entitled to receive a true and correct
23 copy of said tape recording from plaintiffs, or AMS may similarly and simultaneously tape record
24 the DME with its own tape recorder.

25 5. AMS shall be responsible for Dr. Comiter’s fees for administering the DME.

26 6. The fact that plaintiffs stipulated that plaintiff Ellen Ambroff would appear for the
27 DME shall not be admissible at the trial of this action. The fact that plaintiffs stipulated that
28 plaintiff Ellen Ambroff would appear for the DME shall not be deemed as a waiver of any

challenges or objections to Dr. Comiter or his testimony, including, but not limited to objections as to Dr. Comiter's qualifications, bias, conclusions, methodology, or opinions derived from the examination, nor do plaintiffs waive any challenges to the scientific basis, methodology or general acceptance in the community of any of Dr. Comiter's methodology or opinions. The fact that plaintiffs stipulated that plaintiff Ellen Ambroff would appear for the DME shall not be deemed as an admission that the examination was not invasive, or painful. Plaintiffs do not concede that the examination was not invasive, or painful and do not waive any objections to the admissibility of any written material relied upon or produced by Dr. Comiter.

IT IS SO STIPULATED.

DATED: June 29, 2010

HERSH AND HERSH

By: /s/ Amy Eskin
AMY ESKIN
Attorney for Plaintiff
ELLEN AND TERRY AMBROFF

DATED: June 29, 2010

KENNEY & MARKOWITZ L.L.P

By: /s/ Kimberly I. McIntyre
KEN M. MARKOWITZ
KIMBERLY I. MCINTYRE
Attorneys for Defendant
AMERICAN MEDICAL SYSTEMS INC.

[PROPOSED] ORDER

Based on the foregoing stipulation of the parties, **IT IS SO ORDERED.**

DATED: June 30, 2010


JAMES LARSON
UNITED STATES MAGISTRATE JUDGE

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